



State of Arizona
Department of Education

Tom Horne
Superintendent of
Public Instruction

MEMORANDUM

TO: Superintendents and Principals

FROM: Superintendent Tom Horne

DATE: August 8, 2003

RE: ELL Issues

This is intended to clarify some issues that have arisen regarding English immersion:

1. It was reported that a school district did not distribute books that came from the governor because the books were bilingual. They were fearful that distribution of the books would violate the English immersion law. Distribution of the books does not violate the law, and they should be distributed.

2. Some music teachers reported that a principal told them not to use words like *allegro* in class. This is a serious misinterpretation. There is nothing wrong with using words from foreign languages in class. Indeed, if the high school choir is capable of singing Bach's *Minor Mass* in Latin, there could be nothing better. In English immersion classes, occasional use of the student's home language, when translating words will speed the education process, is desirable.

The violation occurs when a significant portion of the day is spent in the student's home language, thereby decreasing the speed with which the student will become proficient in English. Other than that, common sense should prevail.

3. ASBA sent out a memo that was in error, for the following reasons:

The key, summary paragraph from the attorney general's opinion regarding waivers was the following:

In sum, the Guidelines are within the Superintendent's statutory authority, except for the selection of specific tests to determine English proficiency. The Board must determine which standardized tests or other procedures are used to

determine English proficiency. A.R.S. § 15-756(A). In addition, the minimum test scores for a (B)(1) waiver, although an appropriate subject for monitoring guidelines, must be supported by facts that establish that the scores are the average for students at the appropriate grade level, as required by statute.

The selection of tests has already been done by the Board. A copy is enclosed. Some have argued that these tests were adopted as part of a rule, and the rule itself has not been approved by the attorney general's office. But the fact remains that the Board did vote on, and approve those tests. Furthermore, if no tests had been approved, then there would be no basis to establish that any students have good English language skills and no waivers at all would be available. The fact that tests were approved makes waivers available, where appropriate.

The key issue is the minimum test score for a (B)(1) waiver. For example, the guidelines, issued by this office last February, specified a four on the LAS, rather than a three, that had been used in some districts. In the above-quoted paragraph, the attorney general states that the determination of these minimum tests scores is "an appropriate subject for monitoring guidelines." The term "monitoring" throughout the opinion refers to those duties that fall on the superintendent or the Department of Education as opposed to the Board. In the beginning of the opinion, the attorney general states:

Section 15-756(B), A.R.S., authorizes the Department of Education ("Department") to develop guidelines for monitoring public schools to ensure compliance with State and federal laws governing English language learners. (Emphasis added.)

The attorney general further specifies that such guidelines issued by the Department "must be supported by facts that establish that the scores are the average for students at the appropriate grade level..." I do have those facts to support the minimum scores established. For example, the publisher of LAS has written to us:

Consistently, the native English speakers scored in the low to mid 90's (raw score). The translation table, found on page 19 of the LAS-O Technical Manual, shows that with Form 1 (Grades 1-6), this is a 5.

Some have objected that that is a national average rather than an Arizona average. I don't know why anyone would believe that Arizona students speak English more poorly than students nationally. However, note that the score set forth in the guidelines last February was a four, not a five. Even if Arizona students speak English more poorly than students nationally, the chance that they speak that much more poorly, is exactly zero.

Furthermore, the publisher has written to us on this issue as well:

Although the statistics do not disaggregate where each state falls with average LAS scores, it can be concluded that the national average would indeed reflect the state of Arizona.

Similarly, the publisher of the IPT has written to us: "I have full confidence that the results from the national normative sample should apply to Arizona."

Clearly, the guidelines issued by the Department, which is part of the Department's "appropriate...monitoring guidelines," is "supported by facts that establish that the scores are the average for students at the appropriate grade level." By the standards set forth by the attorney general, the guidelines issued last February were proper and enforceable.

What this is all about is what is in the best interests of the children. I refer you to an article in *Education Next*, which is published by Harvard, Stanford, and two research institutions. You can log onto the article at www.educationnext.org, then click the "Fall 2002" issue and review the article on "Bilingualism." It establishes that students who have been in English immersion programs outperform students who have been in bilingual programs, in that (1) they have more years in school; (2) more of them enter college; (3) they have a higher annual income; and (4) they exceed the bilingual students in entering high-status occupations by almost two to one.

A number of superintendents who disagree with me philosophically have nevertheless indicated that their school districts will comply with the guidelines, because they wish to be lawful. I owe it to them, at a minimum, to follow through with enforcement against any districts that should proceed in defiance of those guidelines. This may include, but not be limited to, disqualification from receiving some types of funding.

In changing from bilingual to English immersion programs, it is crucial that those English immersion programs be successful ones. The Department stands ready to supply help with the best practices in English immersion to any district that requests it.

Sincerely,

Tom Horne